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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,
Plaintiff,
vs.

BLENDJET INC., a Delaware corporation,
Defendant.

**BLENDJET’S MOTION FOR LEAVE TO
MAINTAIN DOCUMENTS UNDER
SEAL**

Civil No. 2:21-cv-00668-TC-DBP
Judge Tena Campbell
Magistrate Judge Dustin B. Pead

Defendant BlendJet, Inc., pursuant to the Court's Order Granting Plaintiff's Motion to File Documents Under Seal (ECF No. 153), DUCivR 5-3, and the Standard Protective Order that applies in all civil cases in the U.S. District Court for the District of Utah, hereby moves this Court for leave to file, and to maintain, under seal complete – or in some cases unredacted – versions of the following documents:

- Blendtec's Reply to Blendjet's Response to Motion to Enforce the Protective Order and to Disqualify McGill ("Reply to Motion to Enforce") (a redacted version of this document was publicly filed on May 30, 2023 as ECF No. 138, and a sealed version was filed on the same day as ECF No. 142);
- Exhibit 1 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-1, and a sealed version was filed on the same day as ECF No. 142-1);
- Exhibit 2 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-2, and a sealed version was filed on the same day as ECF No. 142-2);
- Exhibit 3 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-3, and a sealed version was filed on the same day as ECF No. 142-3);
- Exhibit 4 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-4, and a sealed version was filed on the same day as ECF No. 142-4);
- Exhibit 5 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-5, and a sealed version was filed on the same day as ECF No. 142-5);
- Exhibit 6 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-6, and a sealed version was filed on the same day as ECF No. 142-6);
- Exhibit 7 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-7, and a sealed version was filed on the same day as ECF No. 142-7);

- Exhibit 8 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-8, and a sealed version was filed on the same day as ECF No. 142-8);
- Exhibit 9 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-9, and a sealed version was filed on the same day as ECF No. 142-9);
- Exhibit 10 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF 138-10, and a sealed version was filed on the same day as ECF No. 142-10);
- Exhibit 11 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-11, and a sealed version was filed on the same day as ECF No. 142-11);
- Exhibit 12 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-12, and a sealed version was filed on the same day as ECF No. 142-12);
- Exhibit 13 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-13, and a sealed version was filed on the same day as ECF No. 142-13);
- Exhibit 14 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-14, and a sealed version was filed on the same day as ECF No. 142-14);
- Exhibit 15 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-15, and a sealed version was filed on the same day as ECF No. 142-15);
- Exhibit 16 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-16, and a sealed version was filed on the same day as ECF No. 142-16);
- Exhibit 17 to the Reply to Motion to Enforce (a placeholder slipsheet for this document was publicly filed on May 30, 2023 as ECF No. 138-17, and a sealed version was filed on the same day as ECF No. 142-17);
- Declaration of Brett Foster in Support of Blendtec's Reply to Blendjet's Response to Motion to Enforce the Protective Order and to Disqualify (the "Foster Reply Decl.") (a redacted version of the Foster Decl. was publicly filed on May 30, 2023 as ECF No. 140,

and a sealed version was filed on the same day as ECF No. 144);

- Declaration of Tamara Kapaloski in Support of Blendtec's Reply to Blendjet's Response to Motion to Enforce the Protective Order and to Disqualify ("Kapatoski Reply Decl.") (a redacted version of the Kapaloski Reply Decl. was publicly filed on May 30, 2023 as ECF No. 139, and a sealed version was filed on the same day as ECF No. 143);
- Exhibit 1 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-1, and a sealed version was filed on the same day as ECF No. 143-1);
- Exhibit 2 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-2, and a sealed version was filed on the same day as ECF No. 143-2);
- Exhibit 3 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-3, and a sealed version was filed on the same day as ECF No. 143-3);
- Exhibit 4 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-4, and a sealed version was filed on the same day as ECF No. 143-4);
- Exhibit 5 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-5, and a sealed version was filed on the same day as ECF No. 143-5);
- Exhibit 6 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-6, and a sealed version was filed on the same day as ECF No. 143-6);
- Exhibit 7 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-7, and a sealed version was filed on the same day as ECF No. 143-7); and
- Exhibit 8 to the Kapaloski Reply Decl. (a placeholder slipsheet for this Exhibit was publicly filed on May 30, 2023 as ECF No. 139-8, and a sealed version was filed on the same day as ECF No. 143-8).

On May 30, 2023, Plaintiff filed a Motion for Leave to File Under Seal the documents identified above. (ECF No. 141). The Court ordered all of the documents to be sealed on June 5,

2023. (ECF No. 153). That Court Order also provided that BlendJet must move to have the documents remain to be sealed because they were documents identified as confidential and AEO by BlendJet. *Id.* BlendJet respectfully requests the Court maintain each of these documents under seal for the following reasons:

Documents to File Under Seal	Reasons for Good Cause
Reply to Motion to Enforce (ECF Nos. 138, and 142)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS’ EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). These documents also contain personal and confidential financial information relating to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. See Declaration of Martin R. Bader (“Bader Decl.”) at ¶ 2.
Exh. 1, Reply to Motion to Enforce (ECF Nos. 138-1, and 142-1)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS’ EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). These documents also contains confidential personal and financial information relating to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 3.
Exh. 2, Reply to Motion to Enforce (ECF Nos. 138-2, and 142-2)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS’ EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document

	containing the AEO information to be filed under seal. Bader Decl. at ¶ 4.
Exh. 3, Reply to Motion to Enforce (ECF Nos. 138-3, and 142-3)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 5.
Exh. 4, Reply to Motion to Enforce (ECF Nos. 138-4, and 142-4)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 6.
Exh. 5, Reply to Motion to Enforce (ECF Nos. 138-5, and 142-5)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 7.
Exh. 6, Reply to Motion to Enforce (ECF Nos. 138-6, and 142-6)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 8.

Exh. 7, Reply to Motion to Enforce (ECF Nos. 138-7, and 142-7)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 9.
Exh. 8, Reply to Motion to Enforce (ECF Nos. 138-8, and 142-8)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 10.
Exh. 9, Reply to Motion to Enforce (ECF Nos. 138-9, and 142-9)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 11.
Exh. 10, Reply to Motion to Enforce (ECF Nos. 138-10, and 142-10)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 12.
Exh. 11, Reply to Motion to Enforce (ECF Nos. 138-11, and 142-11)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS'

	EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 13.
Exh. 12, Reply to Motion to Enforce (ECF Nos. 138-12, and 142-12)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 14.
Exh. 13, Reply to Motion to Enforce (ECF Nos. 138-13, and 142-13)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 15.
Exh. 14, Reply to Motion to Enforce (ECF Nos. 138-14, and 142-14)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a AEO document containing the redacted information to be filed under seal. Bader Decl. at ¶ 16.
Exh. 15, Reply to Motion to Enforce (ECF Nos. 138-15, and 142-15)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial

	information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 17.
Exh. 16, Reply to Motion to Enforce (ECF Nos. 138-16, and 142-16)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 18.
Exhibit 17, Motion to Enforce (ECF Nos. 138-17, and 142-17)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 19.
Foster Reply Decl. (ECF Nos. 140, and 144)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). These documents also contain confidential personal and financial information relating to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 20.
Kapaloski Reply Decl. (ECF Nos. 139, and 143)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial

	information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). These documents also contain confidential personal and financial information relating to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 21.
Exh. 1, Kapaloski Reply Decl. (ECF Nos. 139-1, and 143-1)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. These documents also contain confidential personal information relating to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 22.
Exh. 2, Kapaloski Reply Decl. (ECF Nos. 139-2, and 143-2)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 23.
Exh. 3, Kapaloski Reply Decl. (ECF Nos. 139-3, and 143-3)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 24.
Exh. 4, Kapaloski Reply Decl. (ECF Nos. 139-4, and 143-4)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-

	3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 25.
Exh. 5, Kapaloski Reply Decl. (ECF Nos. 139-5, and 143-5)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 26.
Exh. 6, Kapaloski Reply Decl. (ECF Nos. 139-6, and 143-6)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 27.
Exh. 7, Kapaloski Reply Decl. (ECF Nos. 139-7, and 143-7)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 28.
Exh. 8, Kapaloski Reply Decl. (ECF Nos. 139-8, and 143-8)	Contains information that has been designated as CONFIDENTIAL INFORMATION—ATTORNEYS' EYES ONLY pursuant to the Standard Protective Order by BlendJet. Contains non-public sensitive financial information that may cause competitive harm to BlendJet if disclosed. DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). These documents also contain confidential personal and financial information relating

	to Mr. McGill. The Court ordered a related document containing the AEO information to be filed under seal. Bader Decl. at ¶ 29.
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In sum, good cause exists to file (and maintain) these documents under seal because they have been designated as CONFIDENTIAL INFORMATION—ATTORNEYS’ EYES ONLY pursuant to the Standard Protective Order by BlendJet and contain non-public and sensitive information that, if publicly disclosed, could cause BlendJet competitive harm. *See* DUCivR 26-2; DUCivR 5-3(b)(2)(C)(i). As noted above, many of these documents also contain personal and confidential financial information relating to Mr. McGill. Further, none of the redacted portions of these documents are relevant or central to the Court’s substantive rulings on the parties’ trademark dispute. *Ion Solar LLC v. Marlowe*, 2023 U.S. Dist. LEXIS 75672, *6, 2023 WL 3168488 (D. Utah April 28, 2023) (ordering that confidential and financial documents that have no bearing on the substantive rulings shall be sealed).

Accordingly, BlendJet respectfully requests that the Court enter an Order restricting public access to and/or sealing the foregoing documents.

Respectfully submitted this 9th day of June, 2023.

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

/s/ Martin R. Bader

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of June, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send an electronic notification to counsel of record for all parties, including the following:

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